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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,170	03/04/2002	Edward T. Maas	HELLWAT-7	9952
20455	7590	06/03/2005	EXAMINER	
LATHROP & CLARK LLP 740 REGENT STREET SUITE 400 P.O. BOX 1507 MADISON, WI 537011507			PHAM, MINH CHAU THI	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,170

Applicant(s)

MAAS ET AL.

Examiner

Minh-Chau T. Pham

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-37 and 39-97 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-37 and 39-97 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-11, 13-37 and 39-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chau (6,254,772 B1), in view of Chau (6,068,764).

Chau (-772) discloses a control apparatus for a fluid filtration system for removing contaminants from a supply of fluid comprising a tank (10) having an interior, a fluid inlet into the interior, a diffuser (48) between the fluid inlet and the interior, a fluid outlet from the interior, and a bleed-off tube (30, col. 4, lines 50-57) connecting the tank interior to a drain (see details of Fig. 1). Chau (-772) further discloses a plurality of valves (from first to sixth valves) operated (82, 84, 86, 88, 90 and 92, col. 5, line 63 through col. 6, line 32, col. 6, line 66 through col. 8, line 16) via an actuator (col. 6, lines 47-56) wherein the controllable actuator is operable to repeatedly switch between first and second state and vice versa. Claims 1-11, 13-37 and 39-97 differ from the disclosure of Chau (-772) in that the valves are controlled via pressure. Chau (-764) discloses the valves can be controlled via pressure (see col. 3, lines 9-20 and line 67 through col. 4, line 23, col. 4, line 43 through col. 7, line 20). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide valves operated by pressure as taught by Chau (-764) in the filtration apparatus of Chau (-772) since it is well known in the art that fluid pressure is sufficient to adequately permit operation of valves to control a fluid filtration system.

Response to Arguments

Applicant's arguments filed on February 14, 2005 have been fully considered but they are not persuasive.

Applicant argues that the cited reference Hellenbrand fails to disclose the control operation of the first and second valve for the aeration control apparatus such as when the first valve is actuated by moving it from the second position to the first position, the gas pressure is then applied to the second valve so that the second valve moves from its second position to its first position". The Examiner now drops the Hellenbrand reference and newly introduces Chau (6,254,772 B1) as the primary reference and Chau (6,068,764) as the secondary reference in the 103 rejection to show that: Chau (-772) discloses a control apparatus for a fluid filtration system for removing contaminants from a supply of fluid comprising a tank (10) having an interior, a fluid inlet into the interior, a diffuser (48) between the fluid inlet and the interior, a fluid outlet from the interior, and a bleed-off tube (30, col. 4, lines 50-57) connecting the tank interior to a drain (see details of Fig. 1). Chau (-772) further discloses a plurality of valves (from first to sixth valves) operated (82, 84, 86, 88, 90 and 92, col. 5, line 63 through col. 6, line 32, col. 6, line 66 through col. 8, line 16) via an actuator (col. 6, lines 47-56) wherein the controllable actuator is operable to repeatedly switch between first and second state and vice versa. Claims 1-11, 13-37 and 39-97 differ from the disclosure of Chau (-772) in that the valves are controlled via pressure. Chau (-764) discloses the valves can be controlled via pressure (see col. 3, lines 9-20 and line 67 through col. 4, line 23, col. 4, line 43 through col. 7, line 20), as claimed. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide valves

operated by pressure as taught by Chau (-764) in the filtration apparatus of Chau (-772) since it is well known in the art that fluid pressure is sufficient to adequately permit operation of valves to control a fluid filtration system.

Please note that the allowance of claims 74-97 is hereby withdrawn and these claims stand rejected over Chau (6,254,772 B1), in view of Chau (6,068,764), because claims 74-97 merely call for a third valve while Chau (-772) clearly discloses a plurality of valves (from first to sixth valves) operated (82, 84, 86, 88, 90 and 92, col. 5, line 63 through col. 6, line 32, col. 6, line 66 through col. 8, line 16) via an actuator (col. 6, lines 47-56) wherein the controllable actuator is operable to repeatedly switch between first and second state and vice versa.

It has been held that the recitation "compressed oxidizing gas" with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. See Ex parte Masham, 2 USPQ 2d 1647 (1987).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Minh-Chau Pham
Patent Examiner
Art Unit : 1724
May 31, 2005